

§ 4.3a

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other Federal agencies upon arrival in the United States.

[T.D. 00–4, 65 FR 2872, Jan. 19, 2000]

§ 4.3a Penalties for violation of vessel reporting and entry requirements.

Violation of the arrival or entry reporting requirements provided for in this part may result in the master being liable for certain civil and criminal penalties, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law. The penalties include civil monetary penalties for failure to report arrival or make entry, and any conveyance used in connection with any such violation is subject to seizure and forfeiture. Further, if any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is involved in the failure to report arrival or entry, additional penalties equal to the value of merchandise may be imposed, and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. The criminal penalties, applicable upon conviction, include fines and imprisonment if the master intentionally commits any violation of these reporting and entry requirements or if prohibited merchandise is involved in the failure to report arrival or make entry.

[T.D. 93–96, 58 FR 67316, Dec. 21, 1993]

§ 4.4 Panama Canal; report of arrival required.

Vessels which merely transit the Panama Canal without transacting any business there shall be required to report their arrival because of such transit. The report of arrival shall be made in accordance with § 4.2(a).

[T.D. 79–276, 44 FR 61956, Oct. 29, 1979]

§ 4.5 Government vessels.

(a) No report of arrival or entry shall be required of any vessel owned by, or under the complete control and management of the United States or any of its agencies, if such vessel (1) is manned wholly by members of the uniformed services of the United States, by personnel in the civil service of the United States, or by both, and (2) is transporting only property of the United States or passengers traveling

on official business of the United States, or it is ballast. However, if any cargo is on board, the master or commander of each such vessel arriving from abroad shall file a Cargo Declaration, Customs Form 1302, or an equivalent form issued by the Department of Defense, in duplicate. The original of each Cargo Declaration or equivalent form required under this paragraph shall be filed with the port director within 48 hours after the arrival of the vessel. The other copy shall be made available for use by the discharging inspector at the pier. See § 148.73 of this chapter with respect to baggage on carriers operated by the Department of Defense.

(b) The arrival of every vessel owned or controlled and manned as described in paragraph (a) of this section but transporting other property or passengers, and every vessel so owned or controlled but not so manned, whether in ballast or transporting cargo or passengers, shall be reported in accordance with § 4.2 and the vessel shall be entered in accordance with § 4.9.

(c) Every vessel owned by, or under the complete control and management of, any foreign nation shall be exempt from or subject to the laws relating to report of arrival and entry under the same conditions as a vessel owned or controlled by the United States.

[28 FR 14596, Dec. 31, 1963, as amended by 39 FR 10897, Mar. 22, 1974; T.D. 83–213, 48 FR 46978, Oct. 17, 1983]

§ 4.6 Departure or unloading before report or entry.

(a) No vessel which has arrived within the limits of any Customs port from a foreign port or place shall depart or attempt to depart, except from stress of weather or other necessity, without reporting and making entry as required in this part. These requirements shall not apply to vessels merely passing through waters within the limits of a Customs port in the ordinary course of a voyage.

(b) The “limits of any Customs port” as used herein are those described in § 101.3(b) of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries.

(c) Violation of this provision may result in the master being liable for certain civil penalties and the vessel to arrest and forfeiture, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law.

[T.D. 93-96, 58 FR 67316, Dec. 21, 1993, as amended by T.D. 98-74, 63 FR 51287, Sept. 25, 1998]

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance filing of cargo declaration.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930 (19 U.S.C. 1431), and by this section. The manifest shall be legible and complete. If it is in a foreign language, an English translation shall be furnished with the original and with any required copies. The manifest shall consist of a Vessel Entrance or Clearance Statement, Customs Form 1300, and the following documents: (1) Cargo Declaration, Customs Form 1302, (2) Ship's Stores Declaration, Customs Form 1303, (3) Crew's Effects Declaration, Customs Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I-418, to which are attached crewmember's declarations on Customs Form 5129, (4) Crew List, Customs and Immigration Form I-418, and (5) Passenger List, Customs and Immigration Form I-418. Any document which is not required may be omitted from the manifest provided the word "None" is inserted in items 16, 18, and/or 19 of the Vessel Entrance or Clearance Statement, as appropriate. If a vessel arrives in ballast and therefore the Cargo Declaration is omitted, the legend "No merchandise on board" shall be inserted in item 16 of the Vessel Entrance or Clearance Statement.

(b)(1) In addition to any Cargo Declaration that has been filed in advance as prescribed in paragraph (b)(2) of this section, the original and one copy of the manifest must be ready for production on demand. The master shall deliver the original and one copy of the manifest to the Customs officer who shall first demand it. If the vessel is to proceed from the port of arrival to

other United States ports with residue foreign cargo or passengers, an additional copy of the manifest shall be available for certification as a traveling manifest (see § 4.85). The port director may require an additional copy or additional copies of the manifest, but a reasonable time shall be allowed for the preparation of any copy which may be required in addition to the original and one copy.

(2) For any vessel subject to paragraph (a) of this section, except for any vessel exclusively carrying bulk or break bulk cargo as prescribed in paragraph (b)(4) of this section, Customs must receive from the carrier the vessel's Cargo Declaration, Customs Form 1302, or a Customs-approved electronic equivalent, 24 hours before such cargo is laden aboard the vessel at the foreign port (see § 4.30(n)(1)). Participants in the Vessel Automated Manifest System (AMS) are required to provide the vessel's cargo declaration electronically.

(3)(i) Where a non-vessel operating common carrier (NVOCC), as defined in paragraph (b)(3)(ii) of this section, delivers cargo to the vessel carrier for lading aboard the vessel at the foreign port, the NVOCC, if licensed by or registered with the Federal Maritime Commission and in possession of an International Carrier Bond containing the provisions of § 113.64 of this chapter, may electronically transmit the corresponding required cargo manifest information directly to Customs through the Vessel Automated Manifest System (AMS) that must be received 24 or more hours before the related cargo is laden aboard the vessel at the foreign port (see § 113.64(c) of this chapter); in the alternative, the NVOCC must fully disclose and present the required manifest information for the related cargo to the vessel carrier which, if automated, is required to present this information to Customs via the vessel AMS system.

(ii) A non-vessel operating common carrier (NVOCC) means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. The term "non-vessel operating common carrier" does not include